IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

W.P.(C).No.201 of 2006(Y)

PETITIONER:-

V.VIJAYAKUMAR, AYILYAM, VETTUROAD,
KANIYAPURAM P.O. TRIVANDRUM.

BY ADV. SRI.M.V.S.NAMBOOTHIRY
SRI.P.RAHIM

RESPONDENTS:-

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1. THE DISTRICT COLLECTOR, TRIVANDRUM.

2. THE SPECIAL TAHSILDAR, (LA)
P.W.D.SOUTHERN CIRCLE, TRIVANDRUM.

3. THE SUPERINTENDING ENGINEER,
KERALA STATE TRANSPORT PROJECT,
PULAMON P.O. KOTTARAKKARA.

BY GOVERNMENT PLEADER SRI.L.G.SURESH BABU.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

P.R.Raman,J.

W.P.(C).No.201 of 2006-Y

Dated, this the 1st day of February, 2007

JUDGMENT

The petitioner challenges an order rejecting his application for reference of the dispute to the Land Acquisition Court under Section 18 of the Land Acquisition Act, hereinafter referred to as "the Act". The reason stated for rejecting the reference is that the petitioner received the Section 12(2) notice on 23.6.2005, but he did not seek any reference within the statutory period of 42 days as provided in clause (b) of Section 18(2) of the Act. In the grounds urged in the writ petition it is stated that the rejection is on a technical reason and that the situation can be saved only by the kind indulgence of this Court. There is no challenge to the finding that the application was belatedly filed after the period prescribed in the Act. When period of limitation is prescribed in the Act and if the application is filed out of time, necessarily such application cannot be entertained. This Court cannot, by exercising the power under Article 226 of the Constitution, compel the respondents to make a reference contrary to the provisions of Section 18(2)(b) of the Act. Article

226 is not a remedy available for saving the limitation when admittedly the application is not filed within time. There is no merit in this writ petition and it is, accordingly, dismissed. C.M.Appln.No.8325 of 2006 shall stand allowed.

P.R.Raman
Judge

vku/-